

The evidence establishes that claimant began having low back symptoms while working on a bridge for respondent. The symptoms worsened to the point that claimant left work on June 18, 1996. The evidence also establishes that claimant, on several occasions, advised respondent of the symptoms he was having. Claimant acknowledges that he did not tell his supervisor that his low back pain was from lifting at work.

Nevertheless, with the nature of claimant's work the Appeals Board believes that claimant's advising that his back was hurting at work did notify respondent that the work was causing pain. Respondent did not, on the other hand, have notice that the work had caused an injury until July 10, 1996.

The Appeals Board does find, however, that claimant had just cause for not notifying respondent more specifically. In effect, respondent had notice of what claimant knew, the work was causing pain. Claimant testified that he notified his employer immediately once he was informed he had a herniated disc. It is not necessary in most cases for a claimant to know specifically what his condition is before he or she is obligated to give notice of an accident. Nevertheless, it seems reasonable in the context of this case, given the gradual onset of symptoms, that claimant did not know he had a work-related injury until that time. The Appeals Board, therefore, finds that claimant's notice on July 10, 1996, is well within 75 days from date of accident, and satisfies the requirements of K.S.A. 44-520.

WHEREFORE, the Appeals Board finds that the Order by Assistant Director Brad E. Avery dated August 23, 1996, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1996.

BOARD MEMBER

c: Strattes R. Sanderson, Atchison, KS
Frederick J. Greenbaum, Kansas City, KS
Bryce D. Benedict, Administrative Law Judge
Brad E. Avery, Assistant Director
Philip S. Harness, Director